

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KEVIE HENDRIX,)	
)	Cause No.: 4:20-cv-1138
Plaintiff,)	
)	Circuit Court of St. Louis City
vs.)	Cause No.: 2022-CC00848
)	
LANTON AUTOMOTIVE, LLC)	JURY TRIAL DEMANDED
d/b/a MIDAS AUTO SERVICE EXPERTS,)	
)	
Defendants.)	

DEFENDANT’S NOTICE OF REMOVAL

COMES NOW Defendant, LANTON AUTOMOTIVE, LLC, and hereby files this Notice of Removal of the above captioned matter, originally filed in the Circuit Court for the City of St. Louis, State of Missouri, to the United States District Court for the Eastern District of Missouri, Eastern Division, pursuant to 28 U.S.C. §1441, and in support thereof respectfully states as follows:

1. Plaintiff filed his petition in the Circuit Court for the City of St. Louis, Missouri on April 28, 2020. Plaintiff is making various claims against the Defendant, including negligence via *res ipsa loquitur* and/or negligence *per se* and breach of implied warranty, arising out of a motor vehicle fire which occurred on April 30, 2015. A complete copy of the State Court file, Cause Number 2022-CC00848, is attached hereto as Exhibit A.

2. Plaintiff is a resident and citizen of the State of Missouri.

3. Defendant is an LLC and both of its members are citizens of Illinois. Therefore, for purposes of removal based on diversity of citizenship, Defendant is not a citizen of the State of Missouri. *See GMAC Commercial Credit LLC v. Dillard Dept. Stores, Inc.*, 357 F.3d 827, 829

(8th Cir 2004) (holding that an LLC's citizenship is that of its members for diversity jurisdiction purposes).

4. With regard to the amount in controversy, the Eighth Circuit has held that the “requirement is satisfied when a fact finder could legally conclude, from the pleadings and the proof adduced to the court before trial, that the damages are greater than \$75,000.” *Capital Indemnity Corp. v. 1405 Assoc., Inc.*, 340 F.3d 547, 549 (8th Cir. 2003).

5. The amount in controversy in this action exceeds Seventy Five Thousand Dollars (\$75,000), exclusive of interests and costs as indicated by the nature of the damages sought in Plaintiff’s Petition. 28 U.S.C. §1332(a). Counsel for Plaintiff has refused Defendant’s requests to stipulate that Plaintiff is seeking to recover less than \$75,000. (See attached email from counsel.)

6. Defendant’s Notice of Removal has been timely filed pursuant to 28 U.S.C. §1446, as Defendant was served on July 29, 2020.

7. Because complete diversity of citizenship exists between Plaintiff and Defendant, and because the amount in controversy in this action exceeds the sum of Seventy Five Thousand Dollars (\$75,000), removal to this Court is proper pursuant to 28 U.S.C. §§ 1332 and 1446.

8. Venue is proper in this Court because this action was originally filed in St. Louis City, Missouri, which is included in this Court’s judicial area. 28 U.S.C. §1441; Local Rule 3-2.07(A)(1).

9. Defendant has, simultaneously with the filing of this Notice of Removal, given written notice of its filing to Plaintiff and to the Circuit Court of St. Louis City, Missouri.

10. Defendant demands a trial by jury on all issues so triable.

WHEREFORE Defendant, LANTON AUTOMOTIVE, LLC, respectfully requests that the above-referenced stat court action be removed from the Circuit Court of the City of St. Louis to

this Court, and that this Honorable Court accept jurisdiction of the case; and for any further relief this Court deems just and proper.

BROWN & JAMES, P.C.

/s/ Jackie M. Kinder

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was sent via the Court's electronic filing system this 25th day of August, 2020, to:

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/s/ Jackie M. Kinder

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